



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1159 (Rescission)]

Commission Decision to Institute a Rescission Proceeding; Permanent Rescission of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Rescission Proceeding; Certain Lithium Ion Batteries, Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Processes Therefor

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a proceeding to determine whether to permanently rescind the Commission's limited exclusion order ("LEO") and cease and desist orders ("CDOs") issued on February 10, 2021. The Commission has determined to permanently rescind the LEO and CDOs. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2019, based on a complaint filed on behalf of LG Chem, Ltd. of Seoul, Republic of Korea and LG Chem Michigan, Inc. of Holland, Michigan. 84 FR 25858 (June 4, 2019). As a result of a corporate reorganization, the complainants are now LG Chem, Ltd. of Seoul, Republic of Korea, LG Energy Solution, Ltd. of Seoul, Republic of Korea, and LG Energy Solution Michigan, Inc.

(collectively, “complainants” or “LG”). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation and sale of certain lithium ion batteries, battery cells, battery modules, battery packs, components thereof, and processes therefor by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States, under subsection (a)(1)(A) of section 337. The complaint, as supplemented, names SK Innovation Co., Ltd. of Seoul, Republic of Korea and SK Battery America, Inc. of Atlanta, Georgia as the respondents (collectively, “respondents” or “SK”). The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation.

On February 14, 2020, the administrative law judge issued an initial determination (“ID”) (Order No. 34) finding that the respondents spoliated evidence, and that the appropriate remedy is to find the respondents in default.

On April 17, 2020, the Commission determined to review the ID in its entirety. 85 FR 22,753 (Apr. 23, 2020) (“Notice of Review”). The Notice of Review requested that the parties brief certain issues and sought briefing from the parties, interested government agencies, and any other interested parties on remedy, the public interest, and bonding.

On February 10, 2021, the Commission affirmed the ID’s finding of default, thus finding a violation of section 337. The Commission issued an LEO and two CDOs, all of which were tailored to accommodate public interest considerations raised by the parties to the investigation and by non-parties.

On May 24, 2021, SK filed a petition to rescind the LEO and CDOs on the basis of settlement. LG did not oppose the petition, and on June 3, 2021, OUII filed a response in support of the petition. Also, on June 3, 2021, SK filed a supplemental submission that provided a modified public version of the settlement agreement.

The Commission has determined that the petition, as supplemented, complies with Commission rules, *see* 19 CFR 210.76(a)(3), and that there are no extraordinary reasons to deny

rescission of the remedial orders. Accordingly, the Commission has determined to institute a rescission proceeding and to permanently rescind the LEO and the CDOs. The rescission proceeding is hereby terminated.

The Commission's vote on this determination took place on June 21, 2021. The LEO and CDOs are permanently rescinded.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 22, 2021.

Lisa Barton,

Secretary to the Commission.

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